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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

MAXIMILIAN KLEIN, et al., on behalf of  
themselves and all others similarly situated.

### **Plaintiffs,**

V.

META PLATFORMS, INC., a Delaware Corporation.

**Defendant.**

Case No. 3:20-cv-08570-JD

**OMNIBUS MOTION TO SEAL  
MATERIALS SUBMITTED IN  
CONNECTION WITH THE CLASS  
CERTIFICATION AND *DAUBERT*  
BRIEFING**

Judge: Hon. James Donato

## **JOINT STATEMENT**

Pursuant to the Court’s September 20, 2023 Order granting the parties’ stipulation to modify sealing procedures, Dkt. No. 656, User Plaintiffs, Advertiser Plaintiffs, and Meta Platforms, Inc. respectfully submit this omnibus motion to seal certain portions of the Parties’ class certification, *Daubert* briefing, and supporting documents, as set forth herein and in the supporting declarations. This omnibus motion is submitted on behalf of all Parties for the purpose of judicial administrative convenience and clarity. The Parties take no position on each other’s requests.

User and Advertiser Plaintiffs filed motions to certify their respective classes on September 15, 2023. Dkt. Nos. 642-643, 645, 648. Meta opposed those motions on October 13, 2023. Dkt. Nos. 669-672. User and Advertiser Plaintiffs filed replies in support on November 3, 2023. Dkt. Nos. 688-689, 696, 698. Advertiser Plaintiffs filed a corrected reply on November 4, 2023. Dkt. Nos. 699-700.

Concurrently, Users and Advertisers moved to exclude the respective class certification opinions of Meta’s expert, Catherine Tucker. Dkt. Nos. 649 (Users); 659-660 (Advertisers). Meta opposed both motions to exclude Tucker’s testimony. Dkt. Nos. 663-664 (Users); 675-676 (Advertisers). Advertisers also moved to exclude the testimony of Meta’s expert, Yael Hochberg. Dkt. Nos. 657-658. Meta opposed the motion to exclude the testimony of Hochberg. Dkt. Nos. 677-678. Users and Advertisers filed replies in support of their motions to exclude Tucker (Dkt. Nos. 681-682, 697), and Advertisers filed a reply in support of their motion to exclude Hochberg (Dkt. Nos. 690-691).

Meta moved to exclude the testimony of Advertisers' experts Scott Fasser and Joshua Gans (Dkt. Nos. 644, 646-647), Kevin Kreitzman and Michael A. Williams (Dkt. Nos. 661-661), and Users' expert, Nicholas Economides (Dkt. Nos. 650-655). Advertisers filed their opposition to the motion to exclude Scott Fasser and Joshua Gans (Dkt. Nos. 665-668) as well as for Kevin Kreitzman and Michael Williams (Dkt. Nos. 679-680). Users opposed the motion to exclude Economides. (Dkt. Nos. 673-674). Meta filed a reply in support of its motions to exclude Fasser

1 and Gans (Dkt. Nos. 683-684), Kreitzman and Williams (Dkt. Nos. 685-686, 692), and  
 2 Economides (Dkt. Nos. 694-695).

3 The Parties submit this Motion, and its accompanying declarations, in accordance with this  
 4 Court's Order. Documents subject to sealing requests in this Motion by any party have been filed  
 5 under seal, with highlighting reflecting the sealing positions of Meta (in yellow), Plaintiffs (in  
 6 blue), and non-parties (in green). Following the Court's resolution of this Motion, the parties will  
 7 file public versions of the class certification and *Daubert* briefing with any appropriate redactions  
 8 consistent with the Court's ruling.

9 **META'S STATEMENT**

10 **I. REQUEST FOR RELIEF**

11 Meta respectfully requests that the Court seal seven categories of non-public information:  
 12 (1) employee identifying information, including email addresses and phone numbers; (2) business  
 13 dealings with third parties, including details of negotiation strategies or specific deal terms; (3)  
 14 confidential financial data or information; (4) confidential pricing data or information; (5)  
 15 descriptions of technical functionality of products and systems; (6) internal research or analysis on  
 16 user, transaction, or app performance, including proprietary methods for conducting that research  
 17 or analysis; and (7) confidential business strategies, including internal analyses or discussions of  
 18 in-development or unreleased products, features, or future plans. Meta's proposed redactions are  
 19 narrowly tailored to cover only documents or portions of documents falling within these seven  
 20 categories that courts regularly recognize as sealable material. The specific items to be sealed, and  
 21 associated reasons for sealing, are listed in the Declaration of Amrish Acharya.

22 If the Court denies this sealing motion, in whole or in part, Meta respectfully requests that  
 23 the Court delay the effect of such order for fourteen (14) days to allow time for affected parties to  
 24 make appropriate plans (including alerting impacted non-parties), bring potential issues to the  
 25 Court's attention, or pursue appropriate relief if necessary. After all, "[o]nce information is  
 26 published, it cannot be made secret again," *In re Copley Press, Inc.*, 518 F.3d 1022, 1025 (9th Cir.  
 27  
 28

1 2008), so this measure will serve as an extra safeguard to ensure that genuinely sealable material  
 2 does not inadvertently spill into the public record and cause irreparable harm.

3 **II. LEGAL STANDARD**

4 Courts recognize a “strong presumption in favor of access to court records,” *Foltz v. State*  
 5 *Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003), to “maintain[] confidence in the  
 6 fair and impartial administration of justice, and [to] protect[] the integrity and independence of the  
 7 courts.” *Finjan LLC v. Palo Alto Networks, Inc.*, 2023 WL 5211321, at \*1 (N.D. Cal. Aug. 14,  
 8 2023) (Donato, J.). The strong presumption is not, however, absolute; “[i]n limited circumstances,  
 9 there may be grounds for curtailing public access.” *Id.* A party seeking to overcome the  
 10 presumption in favor of access for dispositive motions must “articulate[] compelling reasons  
 11 supported by specific factual findings that outweigh the general history of access and the public  
 12 policies favoring disclosure.” *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-  
 13 79 (9th Cir. 2006) (internal citation omitted). A party must also provide “specific, individualized  
 14 reasons for the sealing.” *Johnstech Int'l Corp. v. JF Microtech. SDN BHD*, 2016 WL 4091388, at  
 15 \*1 (N.D. Cal. Aug. 2, 2016) (Donato, J.).

16 The Ninth Circuit has also “carved out an exception” for sealed materials attached to non-  
 17 dispositive motions, such as *Daubert* motions, and other materials that are only “tangentially  
 18 related to the merits of the case.” *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
 19 1097, 1102 (9th Cir. 2016); *DZ Reserve v. Meta Platforms, Inc.*, No. 3:18-cv-04978-JD, Dkt. No.  
 20 350 at 1 (N.D. Cal. Dec. 3, 2021) (Donato, J.) (“motion for class certification and various motions  
 21 to exclude expert witnesses … are not dispositive proceedings”). In those circumstances, the  
 22 parties must make only a “particularized showing of good cause,” *Finjan*, 203 WL 5211321, at \*1,  
 23 as the “public has less of a need for access to court records attached only to non-dispositive  
 24 motions,” and the “public policies that support the right of access to dispositive motions, and  
 25 related materials, do not apply with equal force.” *Kamakana*, 447 F.3d at 1179-80. The Local  
 26 Rules also require that sealing requests must be “narrowly tailored to seal only the sealable  
 27 material.” Civil L.R. 79-5(c)(3).

28

1       **III. ARGUMENT**

2           Meta seeks to seal documents or portions of documents falling into seven categories of  
 3 information that have “traditionally been kept secret for important policy reasons.” *Kamakana*,  
 4 447 F.3d at 1185 (internal citation omitted); *see also In re Qualcomm Litig.*, 2017 WL 5176922,  
 5 at \*2 (S.D. Cal. Nov. 8, 2017) (observing that sealing competitive business information is  
 6 appropriate as it “prevent[s] competitors from gaining insight into the parties’ business model and  
 7 strategy”). For each category, Meta supports its argument with a declaration attesting that the “the  
 8 precise information at issue is confidential and not publicly known, and identifying the competitive  
 9 harm that would likely flow from public disclosure of that precise information.” *Krommenhock v.*  
 10 *Post Foods, LLC*, 334 F.R.D. 552, 587 (N.D. Cal. 2020). Meta’s requests are “narrowly tailored  
 11 to seek sealing only of sealable materials,” Civil L.R. 79-5(b), and readily establish that the  
 12 relevant documents, or portions thereof, are sealable.

13       **A. Employee Identifying Information, Including Email Address and Phone  
 14           Numbers**

15           The Court should grant Meta’s request to seal portions of documents revealing the email  
 16 addresses or phone numbers of current or former Meta employees. These current or former  
 17 employees have a legitimate, legally recognized privacy interest in protecting their contact  
 18 information from public disclosure. If their contact information were to be publicly disclosed,  
 19 they may be subject to “annoyance,” “oppression, or undue burden.” Fed. R. Civ. P. 26(c). For  
 20 example, given the current media attention on Meta, they may receive unsolicited emails and phone  
 21 calls from the press or members of the general public, which could rise to the level of threats or  
 22 harassment.

23           Recognizing employees’ right to privacy, courts routinely seal such information, including  
 24 this Court in this case. *See* Dkt. No. 344. For instance, in *In re Boft Holding, Inc. Sec. Litig.*, 2021  
 25 WL 3700749 (S.D. Cal. July 27, 2021), the court found that there was “good cause to seal the  
 26 [documents] to ‘protect the rights of privacy’ of [former employees], and to prevent the ‘misuse’  
 27 of this identifying information to harass the former employees.” *Id.* at \*8 (internal citation  
 28

omitted). The court noted that “[r]equests to seal personal information are often granted to protect an individual’s privacy and prevent exposure to harm” and that the court had “previously found the same information sealable under the stricter ‘compelling reasons’ standard for these very reasons.” *Id.* (sealing employee addresses). Similarly, in *Snapskeys Ltd. v. Google LLC*, 2021 WL 1951250 (N.D. Cal. May 14, 2021), the court found the stricter “compelling reasons” standard satisfied and sealed “personally identifiable information,” including email addresses and phone numbers of current and former employees. *Id.* at \*3 (collecting cases holding similarly).

**B. Business Dealings with Third Parties, Including Details of Negotiation Strategies or Specific Deal Terms**

The Court should grant Meta’s request to maintain under seal documents or portions of documents that detail sensitive information about its dealings with third parties, including details of negotiation strategies or specific deal terms, disclosure of which will harm Meta’s business relationships with those parties and cause competitive harm to Meta. Protection from disclosure is proper because this confidential information is commercially sensitive and can be exploited by other third parties to improve their negotiating position with Meta. This information has never been publicly disclosed and Meta treats this information as strictly confidential. Meta has proposed limited redactions to protect from disclosure the non-public details of this information, to save it from competitive disadvantage and the possibility that bad actors could use this information for an improper purpose. On this basis, courts—including this Court in this case, *see Dkt. No. 344*—have sealed this type of confidential information. *See, e.g., DZ Reserve, No. 3:18-cv-04978-JD*, Dkt. No. 350 at 1 (sealing information related to Meta’s “business dealings with third parties”); *Milliner v. Bock Evans Fin. Counsel, Ltd.*, 2020 WL 1492692, at \*2 (Mar. 27, 2020) (Donato, J.) (granting request to seal a party’s “highly negotiated agreement” with a third party because “confidential commercial agreements” can constitute sealable “confidential commercial information”); *Yan Mei Zheng-Lawson v. Toyota Motor Corp.*, 2019 WL 3413253, at \*3 (N.D. Cal. July 29, 2019) (granting motion to seal information regarding confidential contractual agreements); *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*3

1 (N.D. Cal. Mar. 4, 2015) (protecting from disclosure business dealing with third parties, including  
 2 consulting and license agreements between third party consultant and defendant); *Nicolosi*  
 3 *Distrib., Inc. v. Finishmaster, Inc.*, 2018 WL 10758114, at \*2 (N.D. Cal. Aug. 28, 2018) (granting  
 4 motion to seal negotiation practices with customers).

5       **C. Confidential Financial Data or Information**

6       The Court should grant Meta’s request to maintain under seal documents or portions of  
 7 documents that contain confidential financial data or reveal confidential information about Meta’s  
 8 finances, including advertising spend by advertisers on Meta’s ad products, predicted size of  
 9 revenue streams, revenue analyses, and expense information. Confidential financial data or  
 10 information, including revenue statements and sales information, are routinely sealed because their  
 11 disclosure may harm a party’s competitive standing. This information has never been publicly  
 12 disclosed, and Meta treats this information as strictly confidential. Disclosure of this information  
 13 would influence the competitive decision-making and business strategies employed by Meta’s  
 14 advertising competitors. Meta has proposed limited redactions to protect from disclosure the non-  
 15 public details of this information, to save it from competitive disadvantage and the possibility that  
 16 bad actors could use this information for an improper purpose. *See DZ Reserve*, No. 3:18-cv-  
 17 04878-JD, Dkt. No. 350 at 1 (sealing information related to Meta’s “revenue streams”);  
 18 *IntegrityMessageBoards.com v. Facebook, Inc.*, 2020 WL 6544411, at \*12-13 (N.D. Cal. Nov. 6,  
 19 2020) (sealing documents concerning the size and relative significance of Meta’s revenue streams  
 20 and finding that Meta’s interest outweighs the public’s interest in access because “the public does  
 21 not need [to] see the subject financial details to understand this action”); *Gearsource Holdings,*  
 22 *LLC v. Google LLC*, 2020 WL 3833258, at \*15 (N.D. Cal. July 8, 2020) (sealing “detailed revenue,  
 23 expense, profit, and sales information associated with specific products … and calculations …  
 24 [made] based on these numbers”); *Philliben v. Uber Techs., Inc.*, 2016 WL 9185000, at \*3 (N.D.  
 25 Cal. Apr. 15, 2016) (granting request to seal “information directly related to [a defendant’s]  
 26 consumer base, its revenue and fee calculations” because it “consists of ‘product-specific financial  
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1 and customer information that is valuable to [defendant's] business and could be used by  
 2 [defendant's] competitors to [defendant's] disadvantage").

3           **D. Confidential Pricing Data or Information**

4           The Court should grant Meta's request to maintain under seal documents or portions of  
 5 documents that contain confidential pricing data or information, including non-public trade secret  
 6 information about the prices of its ad products and how those prices are or can be determined. This  
 7 information has never been publicly disclosed, and Meta treats this information as strictly  
 8 confidential. Disclosure of this information would influence the competitive decision-making and  
 9 business strategies employed by Meta's advertising competitors. Meta has proposed limited  
 10 redactions to protect from disclosure the non-public details of this information, to save it from  
 11 competitive disadvantage and the possibility that bad actors could use this information for an  
 12 improper purpose. Courts routinely seal confidential pricing information. *See, e.g., DZ Reserve,*  
 13 No. 3:18-cv-04878-JD, Dkt. No. 350 at 1 (sealing Meta's "pricing information"); *Cal. Spine &*  
 14 *Neurosurgery Inst. v. United Healthcare Ins. Co.*, 2021 WL 1146216, at \*2-3 (N.D. Cal. Feb. 12,  
 15 2021) ("[C]ourts have found compelling reasons to seal pricing information where the disclosure  
 16 can harm a litigant's competitive standing."); *Philips v. Ford Motor Co.*, 2016 WL 7374214, at \*4  
 17 (N.D. Cal. Dec. 20, 2016) (same); *Rodman v. Safeway Inc.*, 2014 WL 12787874, at \*2 (N.D. Cal.  
 18 Aug. 22, 2014) (sealing "internal, nonpublic information discussing Safeway's pricing strategy,  
 19 business decisionmaking, and financial records, which would expose Safeway to competitive harm  
 20 if disclosed"); *LELO, Inc. v. Standard Innovation (US) Corp.*, 2014 WL 2879851, at \*6 (N.D. Cal.  
 21 June 24, 2014) (Donato, J.) (sealing "confidential pricing information" in an exhibit).

22           **E. Technical Functionality of Products and Systems**

23           The Court should grant Meta's request to seal documents or portions of documents  
 24 revealing the commercially sensitive technical functionalities of Meta's products or systems.  
 25 Much like the other materials that Meta seeks to seal, these technical functions have never been  
 26 publicly disclosed and Meta treats this information as strictly confidential. Disclosure of this  
 27 information would influence the competitive decision-making and business strategies employed

1 by Meta's advertising competitors. Meta has proposed limited redactions to protect from  
 2 disclosure the non-public details of these systems, to save it from competitive disadvantage and  
 3 the possibility that bad actors could use this information for an improper purpose. For example,  
 4 these materials discuss Meta's ad auction, ad targeting and delivery systems, or the data tables that  
 5 Meta uses to run those processes. The ad auction is a sophisticated mechanism and trade secret  
 6 that Meta has developed over several years, and it helps Meta distinguish its advertising products  
 7 from other advertising platforms by setting the pricing at which Meta is able to deliver its ads to  
 8 the users.

9       Courts regularly recognize that disclosure of trade secrets such as the functionality of  
 10 Meta's ad auction is a valid basis to maintain such materials under seal. *See DZ Reserve*, No. 3:18-  
 11 cv-04878-JD, Dkt. No. 350 at 1 (sealing information related to "technical processes and  
 12 functionalities of Meta's products and systems"); *dotStrategy Co. v. Facebook Inc.*, No. 3:20-cv-  
 13 00170-WHA, Dkt. No. 140 at 5 (N.D. Cal. June 10, 2021) (granting Meta's request to seal  
 14 documents that "contain specific information about its advertisers' billing preferences, and its  
 15 systems for preventing, detecting, and enforcing against abusive or fake accounts, including names  
 16 of data tables" because "[t]hat information qualifies for sealing" and "is not necessary for the  
 17 public to understand the case"); *U.S. Ethernet Innovations, LLC v. Acer, Inc.*, 2014 WL 6664621,  
 18 at \*1 (N.D. Cal. Nov. 24, 2014) (granting request to seal "proprietary literature describing the  
 19 structure, configuration, and operation of the Sun Ethernet technology"); *Finjan, Inc. v. Cisco Sys.  
 20 Inc.*, 2019 WL 4168952, at \*2 (N.D. Cal. Sept. 3, 2019) (granting a request to seal material that  
 21 "reveals the identification, organization, and/or operation of Cisco's proprietary products," which  
 22 competitors could "use[] to Cisco's disadvantage" by "map[ping] proprietary features of Cisco's  
 23 products"); *In re Google Inc. Gmail Litig.*, 2013 WL 5366963, at \*3 (N.D. Cal. Sept. 25, 2013)  
 24 (sealing "specific descriptions of how Gmail operates," including "the structures that Google has  
 25 in place and the order in which emails go through these structures" because "if this information  
 26 were disclosed, competitors would be able to duplicate features of Gmail, which could cause  
 27 competitive harm to Google"); *Johnstech Int'l Corp.*, 2016 WL 4091388, at \*4 (sealing  
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1 “proprietary … product design information, including product component features unique to the  
 2 … product line”). This is particularly true where the confidential information at stake relates to  
 3 “the specific ways that [Meta’s products] operate[]” or “how users’ interactions” with Meta’s  
 4 platforms affect Meta’s business decisions, which, if revealed, would “cause competitive harm to  
 5 [Meta].” *In re Google Inc. Gmail Litig.*, 2014 WL 10537440, at \*4-5 (N.D. Cal. Aug. 6, 2014).

6 Meta’s proposed redactions are also narrowly tailored and limited to “highly sensitive and  
 7 confidential information related to the structure and operation of [Meta’s] “internal systems.”  
 8 *Adtrader, Inc. v. Google LLC*, 2020 WL 6395441, at \*2 (N.D. Cal. Feb. 25, 2020) (sealing  
 9 materials submitted at class certification with sensitive and confidential information about the  
 10 functionality of Google’s systems for processing invalid activity or responding to fraud on its  
 11 platforms, including internal strategic business decision and policy determinations and insights  
 12 into Google’s strategic priorities and planning decisions, and materials whose disclosure “absent  
 13 context, … could cause harm by providing an incomplete and misleading picture of Google’s  
 14 internal decision making”). Access to this information could allow Meta’s competitors to exploit  
 15 details from the technical processes, functions, and analyses of Meta’s advertising business to gain  
 16 an unfair advantage and cause Meta’s advertising business serious harm. And while conduct  
 17 concerning Meta’s advertising business is a core issue in this case, the minutiae of detail and  
 18 technical functionalities that Meta proposes to keep under seal here are “not necessary for the  
 19 public to understand the case” and the disputes between the parties. *dotStrategy Co.*, No. 3:20-cv-  
 20 00170-WHA, Dkt. No. 140 at 5.

21           **F. Internal Research or Analyses on User, Transaction, or App Performance,  
 22                   Including Proprietary Methods for Conducting that Research or Analysis**

23           The Court should grant Meta’s request to seal documents or portions of documents  
 24 revealing Meta’s internal research or analyses on user, transaction, or app performance, including  
 25 proprietary methods for conducting that research or analysis. This data and research relate to  
 26 Meta’s internal evaluation of its users, transaction, and app performance data, which was obtained  
 27 through Meta’s proprietary, non-public methods and processes. This information about its users’  
 28

1 behavior is used by Meta it analyze its products and services, develop new products and services,  
 2 and anticipate changes in the markets for advertising and attention platforms. Meta treats these  
 3 data and analyses as strictly confidential and has never allowed for their disclosure because, if  
 4 disclosed, such competitors could use such data to Meta’s competitive disadvantage.

5         Courts routinely grant motions to seal product and customer-specific data and analyses  
 6 based on the likelihood that disclosure could cause competitive harm. *See, e.g., DZ Reserve*, No.  
 7 3:18-cv-04878-JD, Dkt. No. 350 at 1-2 (sealing information related to Meta’s “internal analyses,  
 8 modeling, and assessments” and “consumer behavior information”); *Johnstech*, 2016 WL  
 9 4091388, at \*2 (Donato, J.) (sealing “product-specific customer data that could be used to the  
 10 company’s competitive disadvantage,” including information about which customers were  
 11 targeted, the “specific amounts of [the company’s] business attributable to [certain] customers,”  
 12 “nonpublic financial information . . . related to specific customers,” and the percentage of business  
 13 attributable to certain customers); *Continental Auto. Sys., Inc. v. Avanci, LLC*, 2019 WL 6612012,  
 14 at \*4 (N.D. Cal. Dec. 5, 2019) (sealing “number of customers using [a party’s] products”); *Yan*  
 15 *Mei Zheng-Lawson v. Toyota Motor Corp.*, 2019 WL 3413253, at \*2 (N.D. Cal. July 29, 2019)  
 16 (sealing “proprietary marketing strategies, training materials, and competitor analyses” and  
 17 “information derived from exclusive customer in-home interviews and confidential surveys”);  
 18 *Calhoun v. Google LLC*, 2022 WL 3348583, at \*1 (N.D. Cal. Aug. 12, 2022) (granting motion to  
 19 seal Google’s “confidential and proprietary information regarding sensitive features of Google’s  
 20 internal systems and operations, including internal projects, data signals, and logs, and their  
 21 proprietary functionalities, that Google maintains as confidential in the ordinary course of its  
 22 business and is not generally known to the public or Google’s competitors” because “[p]ublic  
 23 disclosure of such confidential and proprietary information could affect Google’s competitive  
 24 standing as competitors may alter their systems and practices relating to competing products.”);  
 25 *Rodman v. Safeway, Inc.*, 2013 WL 12320765, at \*2 (N.D. Cal. Oct. 30, 2013) (finding sealable  
 26 “internal information not otherwise made available” regarding business “transaction and customer  
 27 data”); *Donoff v. Delta Air Lines, Inc.*, 2019 WL 2568020, at \*1 (S.D. Fla. Mar. 14, 2019) (granting  
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1 motion to seal “internal spreadsheet that provides detailed data regarding customer usage of and  
 2 sales achieved through various channels, including Delta’s mobile app, website accessed via  
 3 desktop computer vs. mobile phone, as well as the airline’s stated goals for each business  
 4 channel”).

5       **G. Confidential Business Strategies, Including Internal Analyses or Discussions  
                  of In-Development or Unreleased Products, Features, or Future Plans**

7       The Court should grant Meta’s request to maintain under seal documents or portions of  
 8 documents that detail Meta’s confidential internal business strategies, including about internal  
 9 analysis or in-development or unreleased products, features, or future plans. This material  
 10 includes, for example, Meta’s internal summaries and discussions of its advertising platform and  
 11 user-facing products and services. These discussions reveal competitively sensitive information,  
 12 including how advertisers use and value the advertising platform, how users interact with and value  
 13 Meta’s products and services, how those products and services operate, and Meta’s consideration  
 14 and implementation of potential and actual technological improvements. These documents also  
 15 include data, summaries, and analyses regarding Meta’s in-development or unreleased user or  
 16 advertising products, features, and future plans. This information has never been publicly  
 17 disclosed, and Meta treats this information as strictly confidential.

18       The disclosure of these materials to Meta’s competitors, including other advertising or  
 19 attention platforms, could cause substantial competitive harm to Meta. If disclosed, Meta’s  
 20 competitors would receive unprecedented access to Meta’s strategic decision-making, allowing  
 21 competitors to piggy-back off the work that Meta has done or plans to do. For example,  
 22 competitors would be able to preemptively market themselves to advertisers and users to  
 23 distinguish themselves based on the non-public information found in these documents. This non-  
 24 public information could also give other businesses a competitive advantage over Meta by  
 25 allowing them to mimic Meta’s future business plans. Disclosure would also give potential  
 26 partners unfair leverage in negotiating with Meta.

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1 Sealing information concerning confidential business strategies is routinely permitted  
 2 because there are compelling reasons to keep from public disclosure “[s]ources of business  
 3 information that might harm a litigant’s competitive strategy.” *Music Grp. Macao Commercial*  
 4 *Offshore Ltd. v. Foote*, 2015 WL 3993147, at \*1 (N.D. Cal. June 30, 2015) (quoting *Nixon v.*  
 5 *Warner Comm’cns, Inc.*, 435 U.S. 589, 597 (1978)). Courts routinely seal documents that contain  
 6 “information about [a corporation’s] business strategies and internal decision making, product  
 7 formulations, and confidential finances,” because disclosure may cause competitive harm. *Hadley*  
 8 *v. Kellogg Sales Co.*, 2018 WL 7814785, at \*2 (N.D. Cal. Sep. 5, 2018) (sealing documents related  
 9 to class certification or *Daubert* motions); *see also DZ Reserve*, No. 3:18-cv-04878-JD, Dkt. No.  
 10 350 at 1 (sealing information related to Meta’s “business strategies”); *Arista Networks, Inc. v.*  
 11 *Cisco Sys., Inc.*, 2017 WL 6043303, at \*2 (N.D. Cal. Nov. 28, 2017) (sealing “confidential internal  
 12 business communication regarding an internal assessment of [a party’s] products and [its]  
 13 development strategies” because “[d]isclosure would result in competitive harm”); *Pohly v.*  
 14 *Intuitive Surgical, Inc.*, 2017 WL 878019, at \*2-3 (N.D. Cal. Mar. 6, 2017) (sealing information  
 15 regarding party’s “quality improvement engineering processes” because “[the party’s] competitors  
 16 could use this information to develop or improve its own products based upon [the party’s]  
 17 research and development, testing, and refinements to the manufacturing process”).

18 The recognized protection against disclosure of a corporation’s confidential business  
 19 information is broad. It extends to “confidential information regarding [a defendant’s] products,  
 20 services, and business practices.” *Ojmar US, LLC v. Sec. People, Inc.*, 2016 WL 6091543, at \*2  
 21 (N.D. Cal. Oct. 19, 2016). And a corporation’s “significant interest” in preventing the release of  
 22 its confidential business information applies even where the “case [has] generated an extraordinary  
 23 amount of public interest.” *Apple Inc. v. Samsung Elecs. Co.*, 727 F.3d 1214, 1223-28 (Fed. Cir.  
 24 2013) (sealing market research reports and product-specific financial information, including price  
 25 levels for products and profitability analyses; and per-product revenues, pricings, and costs, that  
 26 competitors and suppliers could utilize during business negotiations, and explaining that public’s  
 27 interest in the case did not create “legally cognizable interest in every document filed”). Such  
 28

1 materials are sealable under “either the ‘good cause’ or ‘compelling reasons’” standard because  
 2 disclosure would result in use for an improper purpose. *Id.*; *see also Space Data Corp. v. X*, No.  
 3 16-cv-03260-BLF, 2017 WL 11503233, at \*2 (N.D. Cal. Sept. 25, 2017) (sealing confidential  
 4 financial information, including plans for and timing of commercialization of products); *Algarin*  
 5 *v. Maybelline, LLC*, No. 12cv3000 AJB (DHB), 2014 WL 690410, at \*3 (S.D. Cal. Feb. 21, 2014)  
 6 (sealing confidential business material, marketing strategies, advertising data, and product  
 7 development plans in dispositive motion); *Rich v. Shrader*, No. 09cv652-AJB (BGS), 2013 WL  
 8 6028305, at \*3-4 (S.D. Cal. Nov. 13, 2013) (sealing business documents, modeling, and financial  
 9 projections).

10 **PLAINTIFFS’ STATEMENT**

11 **I. REQUEST FOR RELIEF**

12 Consumer Plaintiffs seek to seal a very limited amount of information in the transcripts of  
 13 the named plaintiffs, and the deposition of Dr. Economides.

14 First, Consumer Plaintiffs seek limited sealing of certain pieces of personally identifiable  
 15 information (PII) found in the transcripts of the depositions of the three named plaintiffs. The three  
 16 transcripts are found at Exhibits 7-9 of the Declaration of Kevin Y. Teruya in Support of Consumer  
 17 Plaintiffs’ Reply in Further Support of Motion for Class Certification and Appointment of Class  
 18 Counsel (ECF No. 696-12) and Exhibit 4 to the Declaration of Molly Jennings in Opposition to  
 19 User Consumer Plaintiffs’ Motion for Class Certification (ECF No. 670-5). The proposed  
 20 redactions include social media handles, logins for websites, email addresses, and other  
 21 information that, if public, could be used to harass the named plaintiffs or improperly gain personal  
 22 information about them. *See Declaration of Shana E. Scarlett in Support of Omnibus Motion to*  
 23 *Seal Materials Submitted in Connection with the Class Certification and Daubert Briefing*, filed  
 24 concurrently herewith.

25 Second, Consumer Plaintiffs request the court seal a portion of the transcript of Dr.  
 26 Nicholas Economides where defense counsel questioned Professor Economides regarding his  
 27 personal and political opinions. The transcript is found at Exhibit 14 to the Declaration of Kevin  
 28

1 Y. Teruya in Support of Consumer Plaintiffs' Opposition to Facebook's Motion to Exclude  
2 Testimony of Nicholas Economides. ECF 673-4. The material is irrelevant to the litigation and the  
3 pending motion and should remain under seal.

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DATED: November 21, 2023

By: /s/ Shana E. Scarlett

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## SIGNATURE ATTESTATION

This document is being filed through the Electronic Case Filing (ECF) system by attorney Sonal N. Mehta. By her signature, Ms. Mehta attests that she has obtained concurrence in the filing of this document from the signatories.

By: /s/ Sonal N. Mehta  
Sonal N. Mehta

## CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November 2023, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System, and caused sealed attachments submitted herewith to be transmitted to counsel of record by email.

By: /s/ Sonal N. Mehta  
Sonal N. Mehta